

Appl. No. 10/039,753
Amdt. dated: April 7, 2006
Response to Office Action of March 10, 2006

REMARKS

Claims 1-10, 23 and 25-33 are pending in this application. Claims 2-6 are withdrawn from consideration as being drawn to a non-elected invention or a non-elected species. Claims 1, 7-10, 23 and 25-33 are rejected. By the present amendment, claims 1, 23, 26, 29, 31 and 33 are hereby amended, and claims 27 and 30 are hereby canceled without prejudice or disclaimer. Support for the amendments to the claims are found on page 1 and elsewhere throughout the specification. Accordingly, the amendments add no new matter.

Applicant thanks the Examiner for the telephone conference of April 6, 2006 during which the amendment to claim 1 to recite atherosclerotic cardiovascular disease and the amendment to claim 26 to recite a complication of atherosclerotic cardiovascular disease were discussed

In view of the above-described amendments and following remarks, reconsideration of claims 1, 7-10, 23, 25, 26, 28, 29, and 31-33 are respectfully requested.

Applicant also requests rejoinder of claims 2-6, which depend from amended claim 1, and consideration of the English abstract of WO 02/50550, which Applicants mailed to the Patent Office on April 29, 2004 and which was docketed as being received by the Patent Office on May 3, 2004.

§102 Rejections

Claims 1, 7-10, 23, 25-27, 29-31, and 33 are rejected under 35 USC §102(b) as being anticipated by Minota et al (Reference AJ on the IDS submitted 12-2-04)(hereinafter "Minota et al.")

Claims 27 and 30 have been canceled rendering the rejection of these claims moot.

Although Applicant does not agree that Minota et al. discloses a method of identifying a subject at risk of developing or having cardiovascular disease by determining levels of MPO

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mass, MPO activity, or both in the serum, blood, or circulating leukocytes of the subject, as recited in previously presented claim 1, Applicant has amended claims 1, 23, 26, 31, and 33, to recite that the present methods relate to atherosclerotic cardiovascular disease in order to expedite prosecution of the application. Microscopic polyangiitis, the disease that was studied by Minota et al., is not a form of atherosclerotic cardiovascular disease. Lacking disclosure of a method for identifying a subject at risk of having or developing atherosclerotic cardiovascular disease, or assessing a test subject's risk of developing or having atherosclerotic cardiovascular disease, or assessing a test subject's risk of developing a complication of atherosclerotic cardiovascular disease, or characterizing a test subject's risk of having atherosclerotic disease, Minota et al. do not anticipate claims 1, 23, 26, 31, and 33, as amended. Claims 7-10, 25, and 29, respectively, depend from claims 1, 23, and 26, and also are not anticipated by Minota et al. Accordingly, Applicant requests that the rejection be withdrawn.

§103 Rejections

Claims 23, 28 and 32 are rejected under 35 U.S.C.103(a) as being unpatentable over Minota et al., in view of the readily know assay disclosed on pages 13-14 of the application. (See page 3 of the Office Action.)

Minota et al. does not disclose, teach or suggest any method of identifying a subject at risk of developing a complication of atherosclerotic cardiovascular disease as recited in claim 23 as amended, or a method of characterizing a test subject's risk of having atherosclerotic cardiovascular disease as recited in claim 31, as amended. Thus, even if one were to combine the assays disclosed on pages 13 and 14 of the instant application with the teachings and suggestions of Minota et al., one would not arrive at the methods recited in instant claim 28, which depends from amended claim 23, or instant claim 32, which depends from amended claim 31. Accordingly, applicants submit that the methods recited in claims 23, 28, and 32 are not obvious, and request that the rejection be withdrawn.

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In view of the above-described amendments and remarks, applicants submit that claims 1, 7-10 23, 25, 26, 28, 29, and 31-33 are now in conditions for allowance. Applicants request rejoinder of claims 2-6 to these claims, and prompt notice of allowance of the pending claims. If the Examiner has any questions regarding the amendments or remarks, he is encouraged to call Pamela A. Docherty, at (216) 622-8417.

Respectfully submitted,

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